STATE OF ALABAMA DEPARTMENT OF INSURANCE MONTGOMERY, ALABAMA

REPORT OF

ASSOCIATION EXAMINATION

OF

AMERICAN MINING INSURANCE COMPANY, INC.

Birmingham, Alabama

AS OF

JUNE 30, 2005

PARTICIPATION:

SOUTHEASTERN ZONE, NAIC

ALABAMA

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STATE OF ALABAMA COUNTY OF JEFFERSON

Blase Francis Abreo, being first duly sworn, upon his oath deposes and says:

THAT he is an examiner appointed by the Commissioner of Insurance for the State of Alabama;

THAT an examination was made of the affairs and financial condition of AMERICAN MINING INSURANCE COMPANY, INC., for the period from January 1, 2000 through June 30, 2005;

THAT the following 38 pages constitute the report to the Commissioner of Insurance of the State of Alabama; and

THAT the statements, exhibits and data therein contained are true and correct to the best of his knowledge and belief.

Francis Blase Abreo

Blase Francis Abreo, CFE

Subscribed and sworn to before the undersigned authority this 20th day of December 2005.

Charlene D Be (Signature of Notary Public)

Charlene D. Betz Notary Public (Print Name)

in and for the State of Alabama

My commission expires April 2, 2008



Bob Riley GOVERNOR

STATE OF ALABAMA DEPARTMENT OF INSURANCE

FINANCIAL/EXAMINATION DIVISION

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STATE FIRE MARSHALL JOHN S. ROBISON

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Birmingham, Alabama December 20, 2005

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Secretary, Midwestern Zone Honorable Jorge Gomez Commissioner State of Wisconsin PO Box 7873 Madison, Wisconsin 53707-7873

Dear Commissioners:

Pursuant to your instructions and in compliance with the statutory requirements of the State of Alabama and the resolutions adopted by the National Association of Insurance Commissioners, a full scope financial and market conduct examination as of June 30, 2005, has been made of

AMERICAN MINING INSURANCE COMPANY, INC.

at its home office located at 3490 Independence Drive, Birmingham, Alabama 35209. The report of examination is submitted herewith. Where the description "Company" or "AMIC" appears herein, without qualification, it will be understood to indicate *American Mining Insurance Company*, *Inc.*

SCOPE OF EXAMINATION

A full scope financial and market conduct examination was authorized pursuant to the instructions of the Alabama Insurance Commissioner and in accordance with the statutory requirements of the *Alabama Insurance Code* and the regulations and bulletins of the State of Alabama Department of Insurance in accordance with the applicable guidelines and procedures promulgated by the National Association of Insurance Commissioners (NAIC); and in accordance with generally accepted examination standards.

The Company was last examined for the four-year period ended December 31, 1999. The current examination covers the intervening period from January 1, 2000, through December 31, 2003, and was conducted by examiners from the Alabama Department of Insurance, representing the NAIC's Southeastern Zone. Where deemed appropriate, transactions subsequent to December 31, 2003, were reviewed.

The examination included a general review of the Company's operations, administrative practices, and compliance with statutes and regulations. Corporate records were inspected. Income and disbursement items for selected periods were tested. Assets were verified and valued, and all known liabilities were established or estimated as of December 31, 2003. However, the discussion of assets and liabilities contained in this report has been confined to those items which resulted in a change to the financial statements, or which indicated a violation of the Alabama Insurance Code and the Insurance Department's rules and regulations or other insurance laws or rules or which were deemed by the examiner to require comments and/or recommendations. The Alabama Department of Insurance conducted a full scope financial and market conduction examination as of year-end 2003; there were no items noted that had an impact on the financial statements of the Company as of year-end 2003, except for reserving issues. Due to the reserving issues noted, the Alabama Department of Insurance felt that it was appropriate and necessary to update the examination as related to the Company's reserves as of June 30, 2005. See "Note 2 – Losses and Loss Adjustment Expenses" – Page 31 for disclosures.

Based on the December 31, 2003 financial and market conduct examination and the subsequent examination relating to the Company's reserves as of June 30, 2005, there were no changes made to the Company's financial statements by the examiners relating to either December 31, 2003 or June 30, 2005.

Company office copies of the filed Annual Statements for the years 2000 through 2003 were compared with or reconciled to account balances with respect to ledger items.

The market conduct phase of the examination consisted of a review of the Company's territory, plan of operation, complaint handling, marketing and sales, producer licensing, policyholder service, underwriting and rating, claims, and privacy policies and practices.

A signed certificate of representation was obtained during the course of the examination. In this certificate, management attests to have valid title to all assets and to the nonexistence of unrecorded liabilities as of December 31, 2003. A signed letter of representation was also obtained at the conclusion of the examination whereby management represented that, through the date of this examination report, complete disclosures were made to the examiners regarding asset and liability valuation, financial position of the Company, and contingent liabilities.

ORGANIZATION AND HISTORY

The Company was incorporated on February 7, 1984, under the laws of the State of Alabama. The Certificate of Incorporation was filed for record in the office of the Judge of Probate of Jefferson County, Alabama.

Article II of the Articles of Incorporation, as amended (June 19, 1989), lists the objects, purposes and powers for which the organization was incorporated. The primary purpose of incorporation was:

"To insure against any other kind of loss, or damage or liability described within the definition of "casualty insurance" contained in section 27-5-6 of the Alabama Insurance Code..."

Article V of the Articles of Incorporation authorized 100,000 shares of \$10 par value common stock, with an aggregate value of \$1,000,000. Under the name "Southern Fire Insurance Company, Inc.," the Company began business on February 1, 1987, with paid-in capital in the amount of \$400,000 and paid-in surplus in the amount of \$600,000 derived from the sale of 40,000 shares of authorized stock.

The Articles of Incorporation were amended on December 16, 1987 to change the name of the Company from *Southern Fire Insurance Company, Inc.*, to *Interlaken Insurance Company, Inc.* On April 4, 1989, the Articles of Incorporation were amended to

change the name of the Company from Interlaken Insurance Company, Inc., to the present American Mining Insurance Company, Inc.

Article V (Capital Stock) of the Company's Articles of Incorporation was amended on December 27, 1989. Said amendment was, in pertinent part, as follows:

"The aggregate number of shares of all classes of stock which the Corporation shall have the authority to issue is 111,500, which shall be divided into two classes of stock, so that 100,000 shares having a par value of \$10.00 per share shall be shares of common stock and 11,500 shares having a par value of \$100.00 per share shall be shares of preferred stock. The stated capital of the Corporation shall be at least equal to the sum of the aggregate par value of all issued shares of common and preferred stock, plus such amounts as, from time to time, by resolution of the Board of Directors may be transferred thereto."

The authorized capital of the Company consisted of 100,000 shares of common stock with a par value of \$10 per share and 11,500 shares of preferred stock with a par value of \$100 per share. At December 31, 2003, 60,000 shares of common stock, with a value of \$600,000, and 11,500 shares of preferred stock, with a value of \$1,150,000, were issued and outstanding. CGH Insurance Group, Inc. (CGH) has complete stock ownership which it acquired on April 4, 1989.

The Gross paid in and contributed surplus was \$9,804,992 at December 31, 2003.

	AMOUNT
1999 Ending Amount	\$3,442,046
2001 Contribution	2,562,946
2002 Contribution	2,000,000
2003 Contribution	<u>1,800,000</u>
TOTAL	\$ <u>9,804,992</u>

MANAGEMENT AND CONTROL

Stockholders

The Company is a stock corporation with ultimate control vested in its stockholders. At December 31, 2003, one hundred percent (100%) of the Company's issued and outstanding common and preferred capital stock was owned by CGH, an Alabama corporation.

Board of Directors

Members elected to the Board of Directors of the Company, by the sole stockholder on June 24, 2003 and serving at December 31, 2003, were as follows:

Name and Residence	Principal Occupation		
Chandler Fletcher Cox, Jr.	Executive Vice President		
Birmingham, Alabama	CGH Insurance Group		
Dominick Giovannelli	Executive Vice President		
Birmingham, Alabama	CGH Insurance Group		
Edward Marvin Glenn	Executive Vice President		
Birmingham, Alabama	Robinson Adams Insurance Company		

ARTICLE TWO, Section 2.1 of the By-Laws as amended (December 7, 2000), set the number of directors at three, but the number could be changed by the affirmative vote of a majority of the then existing whole Board of Directors.

The minutes of the Board of Directors were reviewed to determine if the Board approved all management, operating, and service agreements prior to the filing of the agreements. The minutes did not indicate that the agreements were approved by the Board, which was in conflict with ALA.CODE § 10-2B-16.01 (1975), which requires that:

"A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholder or board of directors without meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation."

Officers

Officers of the Company elected by the Board of Directors on June 24, 2003 and serving at December 31, 2003 were as follows:

<u>Officer</u>	<u>Title</u>		
Edward Marvin Glenn	Chairman		
Chandler Fletcher Cox, Jr.	President		
Dominick Giovannelli	Exec. Vice President		
Ann Jellison Watts	Secretary		
Gregory Thomas Pierre	Treasurer		
Theodore Carlton Roose	Sr. Vice President Claims		
John Dale Thompson	Sr. Vice President/Branch Manager		
Larry Blake Clevinger	Vice President/Branch Manager		
Donna Jean Shenesky	Vice President Compliance		
Durbin Wayne Christner	Vice President Underwriting		
Bryant Elmer Brown	Vice President Marketing		

Committees

No committees of the board were appointed during the examination period.

Conflict of Interest

The conflict of interest statements filed by the officers and directors of the Company were reviewed for the period covered by this examination. Disclosures were made by an officer and director of the Company; however, it did not appear that the disclosures represented a conflict of interest.

Management, Operating and Service Agreements/Arrangements

Management/Service Agreement with Parent

The Company entered into a management/service agreement with CGH, the Company's parent, on January 1, 2001 and supersedes all prior agreements pertaining to expense allocation. According to the agreement:

- CGH agrees to perform such administrative services as may be necessary to ensure the proper and efficient operations of the business of the Company.
- CGH will not adjust claims or pay claims nor will CGH negotiate any reinsurance and will not underwrite any insurance.
- CGH agrees to pay all direct expenses that could not be identified as direct expenses of the Company. The method of allocation would be based on an annual payroll study submitted to the Alabama Department of Insurance on

- Form B annually. If the study deviates five percent in either direction, CGH will submit to the department for approval of the deviation.
- The Company agrees to pay CGH monthly funds in the amount of \$200,000 to maintain its operations. The balance due under the cost study would be reconciled monthly and any payables or receivables would be settled by the 20th day of the following month. In the event that CGH determined that excess funding occurred, CGH would refund those excess amounts to the Company prior to the normal settlement.

A review of the Company's accounts and records, including related parties' transactions, indicated that the Company was not operating in accordance with the terms of the agreement. The examination established that the amounts paid to CGH were less than the amounts provided for by the payroll cost study. Company management affirmed that the amount calculated by the payroll cost study is considered as the maximum amount CGH could allocate and request reimbursement from the Company, rather than the exact amount that should be reimbursed during the year. In addition, it was determined that there were no vouchers or documentation itemizing the expenses reimbursed by the Company to CGH. The Company's only supporting documentation was the monthly payments made on account of the agreement, which in some months was other than the monthly funding amount of \$200,000. This does not comply with ALA.CODE § 27-27-30(1975), which requires that, for any disbursement of \$25.00 or more for services and reimbursement, a voucher or other document shall describe the services and itemize expenditure.

The previous examination had also recommended that the Company comply with ALA.CODE § 27-27-30(1975), and maintain vouchers or other document for the services and itemized expenditures.

Agency Contract Agreement

Mining Insurance Markets Inc. (MIM), a wholly-owned subsidiary of CGH, the Company's parent, had an agency contract with the Company that was executed on November 1, 2000.

The agreement defined the non-exclusive authority of the Agent (MIM) as follows:

"a. To issue binders and policies within Company's lawful purview provided such authority shall be exercised only in accordance with the terms of this agreement

and such conditions and limitations as are from time to time established by the Company. Agent shall promptly notify the Company of such issuance and shall within five (5) working days furnish it a written copy thereof.

b. To do all other things necessary and proper to carry out this agreement."

Loss Adjustment Service Agreement

American Mining Claims Service, Inc. (AMCSI), a wholly-owned subsidiary of CGH, the Company's parent, had a loss adjustment services agreement with the Company. The agreement was entered into on October 10, 2000, and supersedes the agreement of November 30, 1992.

The agreement states that AMCSI will perform loss adjustment services for 1) Workers' Compensation, 2) Automobile Physical Damage, 3) Pollution Liability, 4) Automobile Liability, and 5) General Liability claims. The contract was non-exclusive in nature and applied only to those insurance claims specifically assigned to AMCSI by the Company. Either party, upon written notice to the other, may cancel this agreement. For each claim opened by AMCSI, the Company agreed to pay a fee based on the following schedule:

<u>Description</u>	<u>Amount</u>	
Workers' Compensation lost time claim	\$300	
Workers' Compensation medical only claims	\$100	
	\$30/Hour plus incidental expenses to be	
All other claims	billed at completion of work	

It was determined that payments were made by the Company on Workers' Compensation claims, with no payments made on Automobile Physical Damage, Pollution Liability, Automobile Liability, and General Liability claims opened by AMCSI. Hence, the Company had not complied with the loss adjustment service agreement.

Loss Adjustment Service Agreement

CGH Claims Service, Inc. (CGHCSI), a wholly-owned subsidiary of AMCSI, had a loss adjustment services agreement with the Company. The agreement was entered into on October 10, 2000, and supersedes the agreement of November 30, 1992.

The agreement states that CGHCSI will perform loss adjustment services for 1) Workers' Compensation, 2) Automobile Physical Damage, 3) Pollution Liability, 4) Automobile Liability, and 5) General Liability claims. The contract was non-exclusive in nature and applied only to those insurance claims specifically assigned to CGHCSI by the Company. Either party, upon written notice to the other, may cancel this agreement. For each claim opened by AMCSI, the Company agreed to pay a fee based on the following schedule:

<u>Description</u>	Amount	
Workers' Compensation lost time claim	\$300	
Workers' Compensation medical only claims	\$100	
All other claims	\$30/Hour plus incidental expenses to be billed at completion of work	

It was determined that payments were made by the Company on Workers' Compensation claims, with no payments made on Automobile Physical Damage, Pollution Liability, Automobile Liability, and General Liability claims opened by AMCSI. Hence, the Company had not complied with the loss adjustment service agreement.

Federal Income Tax Services

During each of the years covered by the examination, the Company had Federal Income Tax Services agreements with CGH. The latest agreement was dated December 8, 2003, in which the Company acknowledges that the consolidated federal income tax expenses for the financial reporting purposes will be allocated to members of the consolidated tax group based on the same basis as if each company filed a separate return. In addition, the agreement stated that the intercompany balances will be settled in the first quarter of 2004; however, the agreement with CGH does not describe the manner in which the balances will be settled following the filing of the consolidated tax return.

The examiners were unable to determine if the Federal Income Tax Services contract was in compliance with regulations promulgated by the IRS, or how the intercompany balances occurring during the year were to be settled. SSAP No. 10, Paragraphs 12 - 13 of NAIC Accounting Practices and Procedures Manual, states in pertinent parts:

"In the case of the reporting entity that files a consolidated income tax return with one or more affiliates, income tax transactions (including payment of tax contingencies to its parent) between the affiliated parties shall be recognized if:

...Amounts owed to a reporting entity pursuant to a recognized transaction shall be treated as a loan or advance, and nonadmitted, pursuant to SSAP No. 25, to the extend that the recoverable is not settled within 90 days of the filing of a consolidated income tax return, or where a refund is due a reporting entity's parent, within 90 days of the receipt of such refunds."

The Company provided no evidence that prior approval of the agreement was filed in accordance with ALA. CODE § 27-29-5(b)(1975), which requires that:

"The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into such transaction at least 30 days prior thereto...and the commissioner has not disapproved it within that period."

ALA. CODE § 27-29-4(b)(1975), states:

"Every insurer subject to registration shall file a registration statement on a form provided by the commissioner which shall contain current information about...Consolidated tax allocation agreements."

The review of the filings made by the Company as required by the Holding Company Act indicated that the Company did not file the Federal Income Tax Service agreement as required by the aforementioned statutes.

HOLDING COMPANY AND AFFILIATE MATTERS

Holding Company Registration

The Company was subject to the Alabama Insurance Holding Company Regulatory Act, as defined in ALA. CODE § 27-29-1 (1975). In connection therewith, the Company was registered with the Alabama Department of Insurance as registrant of an Insurance Holding Company System.

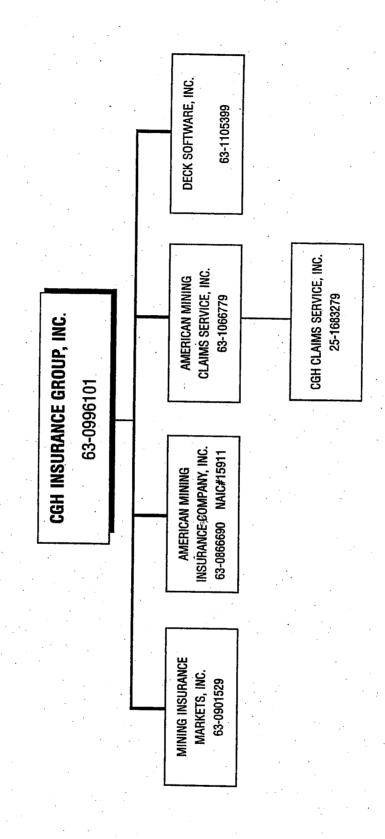
Appropriate filings required under the Holding Company Act were made from time to time by the Company as registrant. A review of the Company's filings during the period under examination indicated that all required filings, other than the item previously noted in the heading MANAGEMENT AND CONTROL, under the caption Federal Income Tax Services, were made.

Dividends to Stockholders

No dividends, to the sole stockholder, were paid during the current examination period.

Organizational Chart

The following chart presents the identities of and interrelationships among all affiliated persons within the Insurance Holding Company System at December 31, 2003:



CORPORATE RECORDS

The Articles of Incorporation, as amended, and By-Laws, as amended, were inspected and found to provide for the operation of the Company in accordance with usual corporate and applicable statutes and regulations. Two amendments were made to the By-Laws during the period covered by the examination.

Minutes of the meetings of shareholders and Board of Directors were reviewed for the period under examination. Other than the items previously noted in the caption MANAGEMENT AND CONTROL, the minutes appeared to be complete with regard to recording actions taken on matters before the respective bodies for deliberation and action.

FIDELITY BONDS AND OTHER INSURANCE

At December 31, 2003, the Company was a named insured under a financial institution bond issued by Fidelity and Deposit Company of Maryland. The single loss limit of the bond exceeded the NAIC suggested minimum requirements for fidelity coverage. The bond provided the following coverages:

- Fidelity
- Forgery or Alteration
- Securities
- Trading Loss

The Fidelity coverage insured the Company against any loss through any dishonest or fraudulent act committed by an employee acting alone or in collusion with others. The dishonest or fraudulent acts must be committed by the employee with the manifest intent to cause the insured to sustain such loss and to obtain financial benefit in the normal course of employment.

In addition to the aforesaid coverages, the Company maintained the following coverages against hazards to which it may be exposed:

- Directors and Officers Liability
- Commercial Automobile
- Commercial Property
- Commercial General Liability

- Computer Crime Policy
- Errors and Omissions
- Workers Compensation Alabama, Kentucky and Pennsylvania
- Employment Practice Liability
- Commercial Catastrophe Liability

The types of coverages and the maximum limits indicated for each occurrence appears to have been sufficient to cover the Company from the liabilities arising from employees' injuries and other hazards to which it might be exposed.

EMPLOYEES AND AGENTS' WELFARE

The Company had no employees during the period covered by the examination; therefore, it had no formal employee or agent benefit programs. Its operations were conducted by the personnel of CGH, parent company, under the terms of a management /service agreement. For further comment, see the caption Management, Operating and Service Agreements/Arrangements under the heading MANAGEMENT AND CONTROL.

Section 1033 of Title 18 of the US Code

The Company was asked how it determined if prospective and current employees were not in conflict with Section 1033 of Title 18 of the US Code and ALA. ADMIN. CODE 482-1-121 (2003), which prohibits certain persons from participating in the business of insurance. Company management provided documentation that asks potential employees, including producing agents, about any violation of laws and the authorization to verify the information.

Company management indicated that any violation of laws by employees, which would bring the employee in conflict with the Section 1033 of Title 18 of the US Code, would be known by the absence of the employee from work. The examination established that the Company had adequate procedures to screen potential employees and update personnel information. Hence, the Company had complied with Section 1033 of Title 18 of the US Code and ALA. ADMIN. CODE 482-1-121 (2003).

MARKET CONDUCT ACTIVITIES

Plan of Operation

The Company is a specialist carrier concentrating in insurance coverages for mining and mine related products. The acceptable mining risks and mine related risks were as follows:

- Surface/Underground Mining:
 - Coal, Sandstone, Limestone, Sand & Gravel, Flagstone Slate, Granite, Marble, Clay, Gold, Copper, Silver, Rock, Potash, Bauxite, Shale, Dolomite, Bentonite, Phosphate, Kyanite.
- Mine Related:

Ore Milling, Coal Preparation Plants, Coal Reclamation Contractor, Mine Equipment Repair/Maintenance Companies (WC only), Blaster Contractors (WC only), Coal Truckmen, Stone Crushing Operations, Excavation, Co-Generation Plants.

During 2003, approximately eighty percent of direct premium written was derived from workers' compensation business. All business, except NCCI Assigned Risk business, was solicited through a general agent, MIM, an affiliated company, in accordance with the terms of an Agency-Company Agreement. The insurance products were distributed through a network of independent insurance agents.

Territory

As of December 31, 2003, the Company was licensed to transact business in the following states:

Alabama	Louisiana	Nevada	Tennessee
Arizona	Maryland	New Mexico	Virginia
Indiana	Mississippi	Pennsylvania	West Virginia
Kentucky			

The certificates of authority were inspected for the period under review. The Company operated on a non-admitted basis as a surplus lines carrier in the state of Ohio. There were no pending licenses at the examination date.

Policy Forms

The following insurance coverages were offered by the Company during the examination period: Workers' Compensation, General Liability, Commercial Auto, Pollution and Catastrophic Excess Liability (Umbrella).

Premium rates for all lines of insurance written were subject to some form of government regulation. Policy forms and endorsements were filed in the state of Alabama and other states where the Company was licensed to do business. Copies of the filed forms were reviewed; it was determined that the forms and endorsements reviewed were properly filed with the appropriate states.

Underwriting Practices

The Company's Underwriting Guidelines, which were in use during the examination period, were reviewed. The examiners established that the Company has adopted a more detailed and comprehensive guideline since March 1, 2002; in addition, the Company's compliance officer quarterly audits policy files to verify compliance with the guidelines. The underwriting guide lists the acceptable and unacceptable risks. All new business submissions must be accompanied with a completed signed application with the most recent five years loss history. The Company has a staff of loss control representatives who visit each prospective insured to determine whether adequate safety procedures are being practiced.

All existing policies are reviewed eighty days prior to renewal. Loss runs are prepared before the files are reviewed at the monthly underwriting managers meeting. On Workers' Compensation business, an updated employee census is required each year. Subject to the receipt of complete underwriting information, renewal quotes are given to the agent thirty days prior to policy expiration. An updated application is requested every year at renewal.

The policy listing provided by the Company consisted of 1,453 new policies issued during the period covered by the examination. In accordance with the guidance provided by the NAIC <u>Market Conduct Examiners Handbook</u>, a sample of fifty policies was reviewed to determine Company's compliance with its underwriting guidelines. The examiners found that:

- Five applications were not properly signed
- Twelve files did not contain loss runs

The Company was not consistently complying with its underwriting guidelines.

Rates and Statistical Reporting

The Company is a member of the National Council on Compensation Insurance (NCCI). In all states, except Pennsylvania, the NCCI forms, rules, and loss cost rates are utilized. Loss cost multiplier filings made by the Company are approved by the applicable insurance departments. Workers' Compensation statistics in all states except Pennsylvania are reported to the NCCI.

In the state of Pennsylvania, the Company was a member of two rating bureaus, the Pennsylvania Compensation Rating Bureau (PCRB), and Coal Mine Compensation Rating Bureau of Pennsylvania (CMCRB). The Company utilizes the forms, rules, and loss cost rates of the aforementioned bureaus. Loss cost multiplier filings made by the Company are approved by the Pennsylvania Insurance Department. Pennsylvania Workers' Compensation class codes are reported to the applicable bureaus.

The Company is a member of the Insurance Services Office (ISO) rating and statistical organization and American Association of Insurance Services (AAIS). For General Liability, Commercial Automobile Liability, Pollution Liability and Umbrella Coverages, ISO forms, rules and loss cost rates are utilized. Loss cost multiplier filings made by the Company are approved by the applicable insurance departments. Statistics for all lines except Inland Marine are reported to ISO. For Inland Marine, AAIS forms and rules are utilized, and statistics are reported to AAIS.

Advertising and Marketing

The Company did not have a formal advertising program at December 31, 2003. The Company participated in various mining industry conventions and printed advertising in select coal mining trade journals and various insurance agents' publications. A review of the printed material was made. It was established that the materials did not make any unfair comparisons leading to deceptive or misleading statements.

The Company has an Internet Website, www.cghinsurance.com. The Company name, address, phone number, lines of business written and the jurisdictions in which the Company's products were sold are listed on the website.

The Company's marketing program was administrated by MIM, an affiliate of the Company. MIM contracted with various independent insurance agencies and agents to produce business for the Company. Except for Workers' Compensation

premiums, which were directly billed, MIM collected premiums from brokers and remitted the premiums less commission to the Company.

Claims Payment Practices

The examiners reviewed the claim payment practices and procedures in use during the period covered by the examination. A sample of open and closed claims files were reviewed to verify the Company's adherence to the claim payment practices and procedures and with policy provisions. The examination of the claim files indicated that the Company had complied with the Company's practices and procedures of recording and investigating reported claims. The time study revealed that claims settlements were made promptly upon receipt of proper evidence of loss.

Complaint Handling

The Company had no record of having received any complaints during the four-year period covered by this examination. There were no written complaints recorded by the Consumers' Division of the Alabama Department of Insurance from January 2000 through December 31, 2003.

Compliance with Agents' Licensing Requirements

An inspection of the Company's records was made to establish that agents representing the Company were duly licensed in the state of Alabama. The records indicated that the Company wrote all business through its affiliate, Mining Insurance Markets, Inc. (MIM) an Alabama-licensed agency. All commissions in the state of Alabama were paid directly to MIM.

The examiner established that all business produced by producing agents was submitted through Ms. Sylvia Wilkins, President of MIM. ALA. CODE § 27-7-34(1975) states:

"On occasional basis, a producer may place with an insurer for which he or she is not appointed...placing the insurance through a duly appointed producer of the insurer."

Company management indicated that there was no specific documentation to prove that MIM had received the policy applications directly from the producing agents. However, the Company demonstrated that the President of MIM was the countersigning agent on the declarations page.

The requirement of Regulation No. 58 and ALA. CODE § 27-7-34(1975) is that business only be placed through appointed agents. In addition, Regulation No. 58 requires that the producing agent be the countersigning agent.

While the Company's files could not clearly document the flow of information, it is clearly documented via the issuance of the policies and the countersignature on the policies that Ms. Sylvia Wilkins or another appointed agent of American Mining Insurance Company is actually involved in the placement of the business with the Company. All premium collections and policy issuance flows through MIM. Company management indicated that while they believe that their procedure is adequate and is in compliance with statutes, they are currently in the process of modifying their procedures to require that all producing agents be appointed, with the exception of the Assigned Risk Business.

Privacy Policies and Practices

[Compliance with ALA. ADMIN. CODE 482-1-122(2002), formerly known as Alabama Department of Insurance Regulation No. 122.]

The Company writes commercial and workers' compensation business. The aforementioned code was not applicable.

SPECIAL DEPOSITS

In order to comply with the statutory requirements for doing business in the various jurisdictions in which it was licensed, the Company had the following securities on deposit with state authorities at December 31, 2003:

<u>State</u>	<u>Par Value</u>	Statement Value	<u>Fair Value</u>
Alabama(1)	\$1,650,000	\$1,661,760	\$1,674,518
Arizona	415,000	417,159	417,159
Louisiana	20,000	20,000	20,000
Nevada	300,000	301,926	321,822
New Mexico	300,000	305,967	322,125
Virginia	250,000	250,136	251,100
U.S. Department of Labor	400,000	399,639	401,500
Total	\$ <u>3,335,000</u>	\$ <u>3,356,587</u>	\$ <u>3,408,224</u>

⁽¹⁾ Held for the protection of all policyholders.

FINANCIAL CONDITION/GROWTH OF THE COMPANY

The following table sets forth the significant items indicating the growth and financial condition of the Company for the period under review:

DESCRIPTION	June 30, 2005	2004	2003*	2002	2001	2000	1999*
Admitted assets	\$83,650,142	\$75,697,617	\$67,893,021	\$57,713,434	\$49,228,808	\$39,668,173	\$40,553,942
Liabilities	61,260,818	58,657,238	51,908,806	43,703,894	37,400,142	30,695,105	31,733,615
Common capital stock	600,000	600,000	600,000	600,000	600,000	600,000	600,000
Preferred capital stock	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000	1,150,000
Paid in and contributed							
surplus	14,304,992	9,804,992	9,804,992	8,004,992	6,004,992	3,442,046	3,442,046
Unassigned funds	6,334,332	5,485,387	4,429,223	4,254,548	4,073,674	3,781,022	3,628,281
Net premiums written	16,214,427	31,264,203	31,643,450	28,792,410	25,851,649	19,136,363	16,633,123

^{*}Per examination. Amounts for the remaining years were obtained from Company copies of filed Annual Statements.

REINSURANCE

Reinsurance Assumed

The Company's assumed reinsurance program consisted of its participation in the mandatory NCCI Assigned Risk Workers' Compensation Pools, in the states of Arizona, Indiana, Tennessee, Nevada, New Mexico, and Virginia. At December 31, 2003, the Company reflected \$1,116,000 in assumed premium and \$397,000 in known case loss and LAE reserves on Schedule F – Part 1 of its Annual Statement from the NCCI mandatory pools.

The Company did not enter into any voluntary assumed reinsurance transactions during the period covered by the examination. At December 31, 2003, the Company reflected \$311,000 of known case loss and LAE reserves on Schedule F – Part 1 of its Annual Statement. The assumed reinsurance transactions occurred with a former affiliate Company, American Mining Insurance Company of Tennessee.

Retroceded Reinsurance

Retrocession Agreement with Converium Reinsurance (North America), Inc. (55% participation), American Re-Insurance Company (15% participation), Federal Insurance Company (15% participation), and Hartford Fire Insurance Company (15% participation).

The retrocession agreement was effective January 1, 2003 and was negotiated through Towers Perrin Reinsurance, an intermediary. The quota share agreement covered 100% of the Company's net liability under the defining agreement arising from its participation in the NCCI Assigned Risk Workers Compensation Pools.

The agreement will remain in-force for an indefinite period, but either party had the right to cancel as of December 31, 2003 by giving at least ninety days prior notice.

Reinsurance Ceded

The Company's ceded reinsurance program consisted of treaty reinsurance agreements which were designed to limit and contain the impact of large single risk losses and protect the Company against catastrophic losses. One of the treaties had an option to negotiate facultative reinsurance on commercial umbrella policies with higher limits.

During the period covered by the examination, the Company was reinsured by a number of insurers including authorized and unauthorized insurers and Lloyd's syndicates. The Company's maximum retention during the year 2003 for General Liability, Automobile Liability, and Workers' Compensation, including Employers' Liability business was \$500,000 of Ultimate Net Loss each Loss Occurrence.

The Company's historical net retention is summarized in the following table:

Workers' Compensation

Coverage Period	Company Retention	Reinsurer(s) Limit
May 1, 1989 - June 30, 1992	\$100,000	\$20,000,000
July 1, 1992 - June 30, 1996	150,000	20,000,000
July 1, 1996 - June 30, 1999	200,000	\$30,000,000 from July 1, 1996 to March 14, 1997, and \$60,000,000 from March 15, 1997 to June 30, 1999.
July 1, 1999 - June 30, 2002	200,000	Statutory limits from July 1, 1999 to December 31, 2001, and \$100,000,000 from January 1, 2002 to June 30, 2002.
July 1, 2002 - June 30, 2004	500,000	30,000,000

General Liability, Automobile Physical Damage and Liability

Coverage Period	Company Retention	Reinsurer(s) Limits
May 1, 1989 - June 30, 1992	\$100,000	\$2,000,000
July 1, 1992 - June 30, 1996	150,000	2,000,000
July 1, 1996 - June 30, 1999	200,000	2,000,000
July 1, 1999 - June 30, 2002	200,000	2,000,000
July 1, 2002 - June 30, 2004	500,000	2,000,000

At December 31, 2003, the following agreements were in-force.

- 1. Workers' Compensation, Casualty and Casualty Clash Excess of Loss Reinsurance Agreement
- 2. Catastrophe Workers' Compensation Excess of Loss Reinsurance Contract
- 3. Quota Share and Excess of Loss Reinsurance of Commercial Umbrella Business

Workers' Compensation, Casualty and Casualty Clash Excess of Loss Reinsurance Agreement

The contract was effective July 1, 2003 and entered into between the Company and American Re-Insurance Company, Princeton, New Jersey, a Delaware Corporation. The agreement reinsured the Company from loss in excess of Company's retention on policies classified as Automobile liability, Other Liability, and Workers' Compensation, including Employers' Liability. The Company's retention and the reinsurer's liability for every additional layer are listed below:

Layers	Automobile & C	Other Liability	Workers' Compensation		
	Company	Reinsurer's	Company	Reinsurer's	
<u>Exhibits</u>	Retention	<u>Limit</u>	<u>Retention</u>	<u>Limit</u>	
A - First Casualty	\$ 500,000	\$ 500,000	-	-	
B - Casualty Clash	1,000,000	2,000,000		-	
C - First Workers' Comp.	-	-	\$ 500,000	\$ 500,000	
D - Second Workers' Comp.	-	-	1,000,000	1,000,000	
E - Third Workers' Comp.	-	-	2,000,000	3,000,000	
F - Fourth Workers' Comp.	-	-	5,000,000	5,000,000	
G – Inland Marine Excess of					
Loss	100,000	150,000			

Catastrophe Workers' Compensation Excess of Loss Reinsurance Contract

TP

The contract was effective July 1, 2003 and was brokered through Benfield Inc. The contract reinsured the Company from catastrophic losses on policies classified as Workers' Compensation and Employers' Liability business. The reinsurer's liability is \$20,000,000 as respects any one occurrence in excess of Company's retention of \$10,000,000. The participating reinsurers are listed below:

<u>Reinsurers</u>	<u>Participation</u>		
United States			
Odyssey America Reinsurance Corporation	10.0%		
United States Total	10.0%		
Europe			
Hannover Ruckversicherungs-Aktiengesellschaft	35.0%		
Aspen Insurance UK LTD	50.0%		
Converium Limited, Switzerland	5.0%		
Europe Total	90.0%		
Grand Total	100.0%		

Quota Share and Excess of Loss Reinsurance of Commercial Umbrella Business

The quota share and excess of loss reinsurance treaty was effective November 1, 2002 and entered into between the Company and General Reinsurance Corporation, Stamford, Connecticut, a Delaware Corporation. Under the terms of the treaty, the Company retained the first 10% of the first \$1,000,000 and the reinsurer was responsible for the remainder, including policies with limits of up to \$5,000,000 and policies classified as Commercial Umbrella. The agreement also provides facultative support for individual accounts the Company would like to submit with a limit not to exceed \$5,000,000 over the treaty coverage of \$5,000,000.

- Occupational disease claims were excluded under all the reinsurance treaties.
- All loss, cost or expenses relating to pollution were excluded from the reinsurance treaty. "Pollution" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- Auto Physical Damage business was not reinsured.

• Inland Marine business was not covered, except for all new policies and policies renewed on or after November 1, 2003.

ACCOUNTS AND RECORDS

The Company's principal accounting records were maintained on electronic data processing (EDP) equipment.

The Company was audited annually by the certified public accounting firm of Ernst & Young, LLP., Birmingham, Alabama. Ms. Mary Betsill was the engagement partner during three of the four years (2000 - 2002), and Mr. Wim Schaffers was the engagement partner during 2003. The examiners obtained and reviewed the audit reports for the years under examination. No management letters were issued during the period covered by the examination.

The reserve calculation for the year 2000 was certified by Ms. Regina Berens, FCAS, MAAA of the casualty actuarial consulting firm, Scruggs Consulting Corporation. The reserve calculation for the years 2001 – 2003 was certified by Mr. Gary T. Ciardiello, FCAS, MAAA, associated with Ernst & Young, LLP.

In general, the accounting records appeared to reflect the operations of the Company during the period under review, except as noted otherwise in this report.

Disaster Recovery Plan

Through interviews with Company management and written responses to the NAIC Information System Questionnaire (ISQ), it was noted that a business continuity plan was in place as of the examination date. The plan allows the Company to continue business activities when breakdown of computer hardware or catastrophic events occur. The plan includes the following:

- Real time backup of primary file server on a mirror sever. In the event of hard disk failure of the primary server, users can logon to the duplicate server.
- Nightly backup kept on site in the event the primary and the mirror servers fail.
- Nightly backup transmitted off site to a predetermined location. This provides an off site copy of each day's activity in the event that the tape backup fails or access to the building is limited by a disaster.

- Nightly tape backup is taken off site by the System Administrator so that at least a day-old copy of the server is maintained in case all files on the primary server and on site copies are lost to disaster overnight.
- A standard tape media is used and tape hardware and software is readily available from the Company's local vendor.

Consideration of Fraud

The examiners utilized the procedures recommended in the NAIC <u>Financial</u> <u>Condition Examiners Handbook</u> in Exhibit M – Consideration of Fraud. The CPA documentation of the fraud risk factors was reviewed and procedures were included during the examination to test the risk factors identified by the CPA. Company management was interviewed; management showed an understanding of the fraud risk factors in the Company and has taken action over the years to mitigate the risk.

Management indicated that they had not identified any fraudulent activities perpetrated against the Company.

FINANCIAL STATEMENTS

The Financial Statements included in this report were prepared based on the Company's records, and the valuations and determinations made during the examination for June 30, 2005. Amounts shown in the comparative statements for the years 2000, 2001, 2002, 2003 and 2004 were compiled from Company copies of filed Annual Statements. See page 2 "Scope of the Examination" for disclosures relating to the period covered by this examination. The statements are presented in the following order:

Statement of Assets , Liabilities, Surplus and Other Funds Pages 27 - 28

Statement of Income Page 28

Capital and Surplus Account Page 29

AMERICAN MINING INSURANCE COMPANY ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS As of June 30, 2005

		Non- admitted	Net Admitted	
<u>ASSETS</u>	<u>Assets</u>	<u>Assets</u>	<u>Assets</u>	
			04404000	
Bonds (Note 1)	\$64,242,329	-0-	\$64,242,329	
Real estate: Properties occupied by the company	2,018,725		2,018,725	
Cash, cash equivalents and short-term investments	11,271,048		11,271,048	
Subtotals, cash and invested assets	\$ <u>77,532,102</u>	\$ <u>-0-</u>	\$ <u>77,532,102</u>	
Investment income due and accrued	523,634		523,634	
Uncollected premiums and agents' balances in the				
course of collection	1,469,721		1,469,721	
Deferred premiums, agents' balances and				
installments booked but deferred and not yet due	2,055,500	11,417	2,044,083	
Reinsurance: Amounts recoverable from reinsurers	451,215		451,215	
Net deferred tax asset	3,117,770	1,539,015	1,578,755	
Electronic data processing equipment and software	50,632		50,632	
TOTALS	\$ <u>85,200,574</u>	\$ <u>1,550,432</u>	\$83,650,142	

AMERICAN MINING INSURANCE COMPANY ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS As of June 30, 2005

LIABILITIES	
Losses (Note 2)	\$40,932,179
Loss adjustment expenses (Note 2)	9,523,567
Other expenses	152,848
Taxes, licenses and fees	1,435,583
Current federal and foreign income taxes	210,621
Unearned premiums	3,798,989
Advance Premium	6,275
Dividends declared and unpaid: Policyholders	80,913
Ceded reinsurance premiums payable	1,133,923
Amounts withheld or retained by company for accounts of others	212,147
Payable to parent, subsidiaries and affiliates	545,704
Aggregate write-ins for liabilities	3,228,069
Total liabilities	\$ <u>61,260,818</u>
SURPLUS AND OTHER FUNDS	
Common capital stock	\$ 600,000
Preferred capital stock	1,150,000
Gross paid in and contributed surplus	14,304,992
Unassigned funds (Note 3)	6,334,332
Surplus as regards policyholders	\$22,389,324
TOTAL LIABILITIES, SURPLUS AND OTHER FUNDS	\$ <u>83,650,142</u>

AMERICAN MINING INSURANCE COMPANY STATEMENT OF INCOME

For the Years Ended December 31, 2000, 2001, 2002, 2003, 2004 and Quarter ending June 30, 2005

	June 30, 2005	2004	2003	2002	2001	2000
UNDERWRITING INCOME:						
Premiums earned	\$ <u>16,822,696</u>	\$ <u>30,414,483</u>	\$ <u>31,817,434</u>	\$27,963,213	\$ <u>25,150,133</u>	\$ <u>18,746,963</u>
Deductions:						
Losses incurred	\$ 8,410,592	\$17,678,290	\$18,856,017	\$17,947,100	\$14,923,547	\$11,688,781
Loss expenses incurred	2,735,281	4,197,168	4,051,797	3,515,111	3,260,806	1,105,892
Other underwriting expenses incurred	<u>5,533,115</u>	9,414,535	9,869,017	<u>8,914,400</u>	9,069,569	7,555,254
Total underwriting deductions	\$ <u>16,678,988</u>	<u>\$31,289,993</u>	\$ <u>32,776,831</u>	\$ <u>30,376,611</u>	\$2 <u>7,253,922</u>	\$ <u>20,349,927</u>
Net underwriting gain (loss)	\$ <u>143,708</u>	\$ <u>(875,510)</u>	\$ <u>(959,397)</u>	\$ <u>(2,413,398)</u>	\$ <u>(2,103,789)</u>	\$ <u>(1,602,964)</u>
INVESTMENT INCOME:			<u></u>	:		
Net investment income earned	\$ 976,449	\$1,901,886	\$ 1,990,202	\$ 2,290,773	\$ 2,211,083	\$ 1,923,994
Net realized capital gains (losses)	2,172	<u>19,636</u>	<u>65,764</u>	(10,105)	<u>16,431</u>	8,900
Net investment gain (loss)	\$ <u>978,621</u>	\$ <u>1,921,522</u>	\$ <u>2,055,966</u>	\$ <u>2,280,668</u>	\$ <u>2,227,514</u>	\$ <u>1,932,894</u>
Net income before dividends to policyholders and before federal and foreign income taxes	\$ 1,122,329	\$ 1,046,012	\$ 1,096,569	\$ (132,730)	\$ 123,725	\$ 329,930
Dividends to policyholders	22,390	147,053	118,501	47,980	71,868	8,680
Net income, after dividends to policyholders but before federal and foreign income taxes	\$ 1,099,939	\$ 898,959	\$ 978,068	\$ (180,710)	\$ 51,857	\$ 321,250
Federal and foreign income taxes incurred	322,621	660,745	331,954	<u>348,585</u>	296,952	76,178
NET INCOME	\$ 777,318	\$ <u>238,214</u>	\$ <u>646,114</u>	\$ <u>(529,295)</u>	\$ <u>(245,095)</u>	\$ <u>245,072</u>

AMERICAN MINING INSURANCE COMPANY CAPITAL AND SURPLUS ACCOUNT

For the Years Ended December 31, 2000, 2001, 2002, 2003, 2004 and Quarter ending June 30, 2005

	June 30, 2005	2004	2003	2002	2001	2000
CAPITAL AND SURPLUS ACCOUNT						
Surplus as regards						
policyholders, December 31 prior year	\$ <u>17,040,379</u>	\$15,984,215	\$14,009,540	\$11,828,666	\$ 8,973,068	\$8,820,327
prior year	917,040,373	\$15,96 4 ,215	\$14,007,540	\$11,020,000	\$ <u>0,775,000</u>	\$ <u>0,020,521</u>
Net income	\$ 777,318	\$ 238,214	\$ 646,114	\$ (529,295)	\$ (245,095)	\$245,072
Change in net unrealized . capital gains or (losses)	-0-	-0-	44,572	(38,028)	75,622	(75,781)
Change in deferred income tax	14,570	457,186	76,570	36,884	350,746	-0-
Change in non-admitted assets	55,857	(188,036)	(89,581)	303,094	(211,897)	\$(13,550)
Change in provision for reinsurance	1,200	548,800	(503,000)	(47,000)	3,000	(3,000)
Cumulative effect of changes in accounting principles	-0-	-0-	-0-	-0-	320,276	-0-
Surplus adjustments: Paid in	4,500,000	-0-	1,800,000	2,000,000	2,562,946	-0-
Aggregate write-ins for gains and losses in surplus	0-			455,219		
Change in surplus as regards policyholders for the year	\$ <u>5,348,945</u>	\$ <u>1,056,164</u>	\$ <u>1,974,675</u>	\$ <u>2.180.874</u>	\$ <u>2,855,598</u>	\$ <u>152,741</u>
Surplus as regards policyholders, December 31, current year	\$ <u>22,389,324</u>	\$ <u>17,040,379</u>	\$ <u>15,984,215</u>	\$ <u>14,009,540</u>	\$ <u>11,828,666</u>	\$ <u>8,973,068</u>

NOTES TO FINANCIAL STATEMENTS

Note 1- Bonds \$64,242,329

The captioned amount is the same as reported in the Company's June 30, 2005 Quarterly Statement.

The Company's 2003 Annual Statement schedules associated with "Bonds" were reviewed, and it was established that some bonds in the Company's portfolio did not have a NAIC designation, but were NRSRO rated securities. During the examination period, the Company management maintained no evidence to support the continued eligibility of Provisionally Exempt (PE) assets; with the exception that First Commercial Bank, the custodian of the Company's investments, writes the Standard & Poor's and Moody's ratings on the quarterly safekeeping statement; however, the Company was unable to provide evidence that the ratings were accurate.

It is necessary that the Company maintain evidence from the NRSRO's demonstrating that securities rated PE by the company meet the requirements of Section 2, Part 4 of the NAIC <u>Purposes and Procedures Manual</u> of the Securities Valuation Office, which states:

"The SVO does not have responsibility for determining whether specific securities should be filing exempt. An insurer who is uncertain whether a specific security qualifies for exempt should not contact the SVO for guidance, but should either file the security with the SVO..."

Note 2 – Losses Loss adjustment expenses

\$40,932,179 \$9,523,567

The above captioned amounts are the same as reported in the June 30, 2005 Quarterly Statement.

It was noted that the gross and net of reinsurance loss and loss adjustment expense (LAE) reserves booked by the Company were approximately \$1.0 million and \$2.0 million, respectively, less than the Company's opining actuary's estimates for loss and LAE reserves. The Company's carried gross and net reserves for Occupational Disease (Black Lung Liabilities) are redundant by \$52,000 and \$69,000, respectively, as compared to the opining actuary's estimates. The amount by which net reserves are below the actuary's estimates represents less than 9% of policyholder surplus and 4% of carried reserves.

The consulting actuary, retained by the Alabama Department of Insurance for this examination, concluded that the gross and net of reinsurance ceded loss, LAE and unallocated loss adjustment expenses (ULAE) reserves booked by the Company fell within a reasonable range of the opining actuary's reserve estimates.

The gross and net loss and LAE reserves carried by the company on their 2003 Annual Statement (Page 3, Lines 1 and 3) of \$55.1 million and \$42.0 million, respectively, were originally found to be deficient by the examiners, and a net reserve adjustment of \$9.2 million was indicated. These reserve amounts, however, were within the Appointed Actuary's reasonable range at that time. The Company subsequently retained the services of a different actuarial firm, which provided estimates that the examiners found to be adequate. It is the range of estimates derived by this firm that was analyzed to determine the adequacy of the Company's carried reserves. The current actuary's analysis of reserves as of June 30, 2005 also derived retrospective estimates of net reserves as of December 31, 2004 and December 31, 2003 for Workers Compensation – Traumatic and Other than Workers' Compensation (OTC) based on ultimates derived as of June 30, 2005. Black Lung reserves as of December 31, 2003 were also estimated by the current actuary in an independent analysis.

The current actuary's estimate of the Company's reserves as of December 31, 2003 reflects a \$9.7 million increase over December 31, 2003 carried reserves as disclosed in the 2003 Annual Statement and found to be reasonable by the prior actuary. The fact that the current actuary's estimates as of December 31, 2003 are materially higher than the Company's carried reserves, combined with the fact that the Company is carrying reserves within a reasonable range of the current actuary's estimates as of June 30, 2005, demonstrates that reserves have been strengthened. No reserve adjustment is recommended.

It was asserted by Company management that it is the Company's practice and intent to utilize the Appointed Actuary's workpapers in support of carried reserves and to book to the Appointed Actuary's point estimate going forward. The reason that the amounts differ at June 30, 2005 is that the Company had to file their quarterly statement prior to the completion of the actuary's work. The Company is in the process of changing Appointed Actuaries to the actuary that provided the June 30, 2005 estimates.

Given the special considerations of this interim evaluation, the fact that the carried reserves are within the range of reasonable reserves per the actuary's June 30, 2005 analysis, and the Company's representation that it will utilize the Appointed Actuary's

point estimates going forward, we do not believe it necessary to produce an exception on this issue.

Items Resulting in Examination Recommendations

The Company identified a class of claims that exhibit unique characteristics in the state of Kentucky and requested that the opining actuary derive estimate of reserves related to the Kentucky business separately from the remainder of the business. The approach taken by the actuary (an allocation based on experience and exposure) does not reflect the unique characteristics of these claims. This issue produced an examination recommendation.

The opining actuary utilized methods, incorporated industry data and made specific adjustments to his reserve analysis that were not sufficiently documented for another credentialed actuary practicing in the same field to follow. This issue produced an examination recommendation.

Per Note 32 to Financial Statements and the Statement of Actuarial Opinion, the Company does not discount reserves. However, a review of the actuarial report supporting the Black Lung liabilities indicates that tabular discounting is utilized for some indemnity reserves. The amount of the discount was not quantified. This issue produced an examination recommendation. Company management has asserted that the Company was unaware that the data provided by NCCI related to these claims was net of tabular discounting until this examination, and that the proper disclosures will be included in Note 32 to Financial Statements starting with the 2005 Annual Statement.

Note 3- Unassigned funds (surplus)

\$ 6,334,332

The captioned amount is the same as reported in the Company's June 30, 2005 Quarterly Statement.

An evaluation by the consulting actuary retained by the Alabama Department of Insurance found that the reserve carried by the Company at June 30, 2005 was within a reasonable range of the opining actuary's reserve estimates. For further comment, see the caption "Note 2 – Losses and Loss adjustment expenses" under the heading NOTES TO FINANCIAL STATEMENTS.

There were no other material exceptions noted during the course of this examination; therefore, no changes were made to the financial statements contained in this Report of Examination.

COMMENTS AND RECOMMENDATIONS

Board of Directors-Page 5

It is recommended that the Company keep a permanent record of all actions taken by the Board of Directors in accordance with ALA.CODE § 10-2B-16.01(1975), which includes a resolution adopting the related parties agreements.

Management, Operating and Service Agreements - Page 6

It is recommended that the Company reimburse all expenses which could not be identified as direct expenses of the Company based on the annual payroll study in accordance with the term of the agreement.

It is recommended that the Company maintain vouchers or other documents describing all services and itemizing all expenditures for disbursements of \$25.00 or more, as required by ALA. CODE § 27-27-30(1975).

<u>Loss Adjustment Service Agreement (AMCSI) - Page 8</u> <u>Loss Adjustment Service Agreement (CGHCSI) - Page 8</u>

It is recommended that the Company make payments for the claim services provided by AMCSI and CGHCSI in accordance with the terms of the contract, not only on workers' compensation business but all other lines of business.

<u>Federal Income Tax Services – Page 9</u>

It is recommended that the Company's tax allocation agreement cover all areas required by SSAP No. 10, paragraphs 12 - 13 of the NAIC <u>Accounting Practices and Procedures Manual</u>, including terminology that states that the agreement is in compliance with the requirements of the IRS.

It is recommended that the Company file the aforementioned cost sharing contract for approval with the commissioner of the Alabama Department of Insurance and thereafter annually in accordance with ALA. CODE §§ 27-29-5(b)(1975), and 27-29-4(b)(1975).

Underwriting Practices- Page 16

It is recommended that the policy files contain all documents, including complete signed applications and the loss runs as required by the Company's underwriting guidelines.

Bonds-Page 31

It is recommended that the Company maintain evidence from NRSROs that securities, rated PE by the Company, meet the requirements of the NAIC <u>Purposes</u> and <u>Procedures Manual</u> of the Securities Valuation Office.

Losses and Loss adjustment expenses - Page 31

It is recommended that, if Workers Compensation - Traumatic reserves will continue to be presented separately for Kentucky and "all other states", the actuary analyze Kentucky reserves using an approach similar to that for Pennsylvania losses in this report.

It is recommended that the Appointed Actuary expand the documentation to more fully describe all methods incorporated in the analysis (such as the calculation of expected losses for the Generalized Cape Cod Method), sources of all industry data relied on, and any specific adjustments made for issues identified with special blocks of business.

It is recommended that the Company properly disclose all tabular and non-tabular discounting in Note 32 to Financial Statements and present all data in Schedule P - Parts 2 through 4 gross of tabular and non-tabular discounting in compliance with the Annual Statement Instructions. In a November 16, 2005 discussion with Company management, it was communicated that the proper disclosures will be included in Note 32 starting with the 2005 Annual Statement.

CONTINGENT LIABILITIES AND PENDING LITIGATION

The review of contingent liabilities and pending litigation included an inspection of representations made by management; a review of the report on litigation made by Company attorneys to the Company's independent certificated public accountants; and a general review of the Company's records and files conducted during the

examination, including a review of claims. The Company did not have any contingent liabilities or non-policy-related litigation at December 31, 2003.

In addition, Company management represented that no material non-policy-related litigation was open against the Company as of April 8, 2005.

COMPLIANCE WITH PREVIOUS RECOMMENDATIONS

A review was conducted during the current examination with regard to the Company's compliance with recommendations made in the previous examination report. This review indicated that the Company had satisfactorily complied with the recommendations contained in the immediately preceding Report of the Examination with the exception of the items listed below:

The preceding report of examination recommended that the Company maintain a voucher or other document describing all services and itemizing all expenditure for disbursements of \$25.00 or more. It is recommended that the Company maintain a voucher or other documents describing all services and itemizing all expenditure of \$25.00 of more as required by ALA.CODE § 27-27-30(1975).

The preceding two reports of examination recommended that the (Federal Income Tax Services) tax allocation agreement comply with the requirements of the NAIC Accounting Practices and Procedure Manual. It is recommended that the tax allocation agreement cover all areas required by SSAP No. 10, paragraph 12 - 13 of the NAIC Accounting Practices and Procedures Manual.

SUBSEQUENT EVENTS

The examiners reviewed the general ledger and cash transactions occurring subsequent to the balance sheet date. In addition, the examiners inquired of management regarding any significant subsequent events. There were no significant events noted other than those listed below:

Reinsurance

Coverium Reinsurance (North America) was one of the reinsurers of the Company's NCCI Assigned Risk business. In December 2004, the reinsurer executed a novation agreement with its parent company, Converium Reinsurance, Switzerland. Coverium

Reinsurance, Switzerland is an unauthorized reinsurer. The Company obtained a letter of credit issued by Citibank N.A, Tampa, FL 33610, which was determined to be clean, irrevocable, and unconditional and had an issue date and expiration date.

Board of Directors

On June 23, 2004, the members on the Board of Directors increased to five, with the addition of Mr. Gregory T. Pierre and Ms. Ann J. Watts to the Board.

CONCLUSION

Acknowledgement is hereby made of the courteous cooperation extended by all persons representing the Company during the course of this examination.

The customary insurance examination procedures, as recommended by the National Association of Insurance Commissioners, have been followed to the extent appropriate in connection with the verification and evaluation of assets and determination of liabilities set forth in this report.

In addition to the undersigned, Tisha Freeman and Angeline Block, Examiners; Glenn Taylor, ACAS, MAAA; Randall Ross, ACAS, MAAA; David M. Shepherd, FCAS, MAAA; and Robert Daniel, ACAS, MAAA Consulting Actuarial Examiners; all representing the Alabama Department of Insurance, participated in this examination of American Mining Insurance Company, Inc.

Respectfully submitted,

Francis Blase Abreo

Blase Francis Abreo, CFE Examiner-in-Charge State of Alabama Department of Insurance